

013683 - Port of LA, West Basin Terminal Improvements

Contributed by Joshua Burnam
Wednesday, 23 October 2002

West Basin Terminal Improvements Projects: Berth 100 and West Basin EIS

CORP'S ISSUES DRAFT SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT ON THE BERTH 100 PROJECT

Executive Summary of Berth 100 Supplemental EA

After the Corps issued the Berth 100 permit to the Port of Los Angeles, the Natural Resources Defense Counsel filed suit against the Corps and Port on behalf of themselves and several local organizations. On July 26, 2002, U.S. District Judge Morrow denied Plaintiffs' request for a preliminary injunction to stop construction at Berth 100. In light of Judge Morrow's Order, the Corps has revised the environmental assessment to clarify its analysis of the project, including indirect and cumulative impacts. To the extent applicable, the revised EA incorporates by reference other documents and information available to the Corps at the time the permit decision was made in April 2002. The data comes from a variety of sources including the Port of Los Angeles' 1997 EIR, the addendum to the 1997 EIR, the Corps' 2000 Main Channel Deepening EIS/EIR, and various additions to both those documents.

10/23/02 - Transcript Available in Spanish

(Details available at Regulatory site.)

Recent History

On April 19, The District completed its review of a request by the Port of Los Angeles to construct a 1,200-foot concrete wharf at Berth 100 (more generally known as the China Shipping terminal). The project includes filling 1.29 acres of San Pedro Bay immediately north of San Pedro Bay, as well as driving wharf piles, dredging and disposing of sediment and building a new wharf dike. The District approved the request subject to the port's agreement to abide by conditions that minimize adverse impacts to the environment. After that, on June 18, the Natural Resources Defense Council filed a federal suit against the Corps, the port and the city of Los Angeles. The suit alleges violations of the National Environmental Policy Act. On July 24, a judge ordered a temporary halt to construction at Berth 100, pending her ruling on a preliminary injunction.

On Friday, July 26, the judge ruled that an injunction sought by some environmental groups and others "would have little, if any, effect" in terms of preventing environmental damage. The ruling allowed construction at Berth 100 to continue.

In early August, one federal and one state court issued rulings which allowed work on Berth 100 to continue. Environmental and homeowners groups had petitioned both courts to stop the work on the port project. But the 2nd District Court of Appeals turned down the attempt, although there will be another hearing on the lawsuit Oct. 18. The 9th Circuit Court of Appeals also denied the plaintiffs' attempt to stop wharf construction at Berth 100. Next year, a separate case will be heard by the federal court. Cost of the overall terminal project is estimated at \$47 million.

In early July, the Corps began the process for determining the scope of an Environmental Impact Statement which would cover Phases II and III of the China Shipping Project, as well as other future projects in the West Basin. On July 16, a meeting to discuss that scope was held at Peck Park auditorium in San Pedro. The Corps expects to prepare a draft document in the fall of 2000 which will be available to the public on this Web site.

(Details available at Regulatory site.)

Port of Los Angeles Berth 100 Permit

The Los Angeles District of the U. S. Army Corps of Engineers (USACE) will issue a permit to the Port of Los Angeles (POLA) that will allow the Port to fill 1.29 acres of San Pedro Bay immediately North of the Vincent Thomas Bridge at a site the Port Designates as Berth 100.

This authorization will allow the POLA to perform construction activities necessary to build a 100ft. long concrete wharf. Construction of this wharf will allow container ships to offload their cargos directly to the Berth 100 area. Current practice requires the ships to offload their cargoes at other locations and move container by truck to Berth 100 to be staged for movement from the Port area.

The role of the Corps of Engineers in this process is to ensure compliance with the laws that promote safe navigation, preserve the nation's wetlands, and ensure that the proposed activity is not contrary to the public interest. Other local, state, and federal agencies regulate other aspects of the proposed project.

Prior to issuance of this permit, the USACE conducted an extensive public involvement process that included:

- The issuance of a public notice describing the proposed project and soliciting comments from interested individuals and organizations.
 - The publication of all comments received as well as the applicant's response to those comments on the Internet.
 - The holding of a Public Hearing at San Pedro High School to receive additional comments on the proposed activity. The transcript of this hearing was also published on the Internet.
- In addition to this public involvement process, USACE coordinated directly with 19 Federal, State and Local agencies to solicit their input to the analysis of the proposed project. All suggestions proposed by these agencies have been incorporated into the conditions of the permit. These included:
- Mitigation for the 1.29 acres of impacted wetlands by the debiting of an equal amount of high quality wetlands from the mitigation bank previously constructed by the POLA for this purpose;
 - Monitoring of activities to prevent the spread of exotic species;
 - Disposal of dredged material at an approved upland disposal site and;
 - Several other standard agency specific administrative coordination requirements

Many of the comments that we received concerned impacts of the POLA's operations on the local communities. The issues associated with these concerns are significant and to the extent that these concerns could be included within the USACE's authority to act in these areas they have been included in the permit conditions.

The POLA has identified several improvements to traditional operating procedures that decrease impacts to the environment and the community. These initiatives have been described in the Environment Analysis of the proposed project. Reporting of the POLA's progress in implementing these initiatives has been included as a condition of the permit.

Several of the comments received also concerned additional work contemplated by the POLA adjacent to the work proposed by the current permit application. This permit action addresses only activities associated with current project. It is expected that future plans of the POLA will require additional permits from USACE. The USACE will require a thorough documentation of the environmental impacts of those activities at the appropriate time.

Frequently Asked Questions - Updated Oct. 23, 2002

Q: Why did the Corps of Engineers issue a supplemental environmental Assessment (EA)?

A. On July 26, 2002, U.S. District Judge Morrow issued an Order denying Plaintiffs' request for a preliminary injunction to halt on-going construction at Berth 100. In light of her order, the Corps has decided to amend the original EA to clarify several sections, including those addressing cumulative impacts.

Q. What has changed in the new EA?

A. The Corps has strengthened its indirect and cumulative impacts analysis by incorporating other documents and information available to the Corps at the time the permit decision was made in April 2002. This information comes from a variety of sources, including the Port's 1997 EIR and the Corps' 2000 Main Channel Deepening EIS/EIR, and various addendums to both. Otherwise, the supplemental EA will be largely unchanged.

Q. What is the current status of the environmental analyses related to Phases II and III of the project?

A. The Corps and the Port have begun drafting the West Basin EIS/Supplemental EIR. This joint NEPA/CEQA document will be a programmatic document that addresses, among other things, air quality, traffic, and health risk impacts in the West Basin, including Phases II and III of the China Shipping Project. The document will analyze the China Shipping Project based on its full-build-out design, meaning that the throughput and associated impacts from all three phases will be considered. The Corps will also analyze future West Basin projects in the document. For more information on the West Basin EIS/Supplemental EIR, see the Regulatory Program website at:

<http://www.spl.usace.army.mil/regulatory/POLA.htm>

Last Updated: August 13, 2002

Q: What did the Corps of Engineers permit?

A. It approved only what is under its jurisdiction-the discharge of dredge or fill material into the waters of the U.S. The Corps is given this jurisdiction under both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The entire terminal development project at Berth 100 is not under the Corps' jurisdiction-only the 1.29 acres of water that would be impacted by the port's project. That acreage, which will be permanently affected by the project, along with another 5.0 acres of U.S. waters that will be temporarily impacted, was the sole focus of the Corps' permit process.

Q. How was the environmental impact of this project considered in the Corps' permitting process?

A. There is an important distinction between the environmental effects of the larger China Shipping Terminal Project (of which Berth 100 is only a part) and the environmental impacts of the Corps permit decision. The environmental impacts of the Corps permit decision were found to be limited in scope. In reaching his decision that the environmental impacts of the Berth 100 project would be limited and would not be significant, Col. Thompson focused on what the port specifically requested. The specific activity for which a permit is required is the construction of a 1,200-foot-long concrete wharf that would include driving 644 24-inch octagonal wharf piles, dredging and disposing of 46,000 cubic yards of sediment and the construction of a new wharf dike with 124,000 cubic yards of backfilling and rock mixed with 22,000 cubic yards of clean fill material.

While other environmental impacts are of considerable interest to the public, they are not part of the Corps' scope of analysis. For example, air quality effects associated with the "upland" container storage areas immediately next to Berth 100 by regulation weren't part of the Corps' review and evaluation. What was considered was the impact on air quality from construction-related emissions. That impact wasn't deemed significant by the Corps' study. In addition, the Corps' permitting decision was confined to Berth 100 and does not include potential future work at Berth 102.

Q. How was the public's input reflected in the permitting process?

A. The Corps issued a public notice describing the proposed project and solicited comments from interested individuals and organizations. It also published all these comments-plus the port's responses to them-on its Internet Web site. In January, the Corps sponsored a public meeting at San Pedro High School where Col. Thompson listened as several of the estimated 300 people gave their views on the project. The Corps distributed a transcript of this hearing on the District Web site. Most of the comments the Corps received were concerned with the impacts of the port's activities on local communities. Col. Thompson and the Corps believe that the issues related to these concerns are significant. To the extent that they could be included in the Corps' authority to do something about them, they were included in the conditions of the permit.

The Corps also coordinated with 19 federal, state and local agencies to get their input on the Corps' analysis of the proposed project. Most suggestions proposed by these agencies have been incorporated into the conditions of the permit. For instance, the port has identified certain improvements to its traditional operating procedures that decrease their impact on the environment and the community. Reporting progress by the port on these initiatives is a condition of the permit.

Q. What's down the road for the port?

A. The port has additional plans for developments next to Berth 100. It is expected that these future plans will require additional permits from the Corps. Col. Thompson said the Corps will require thorough documentation of the environmental impact of any proposed activities. With any future projects, as with Berth 100, the Corps' role is to ensure compliance with federal laws that promote safe navigation, preserve the nation's aquatic resources and determine that a proposed activity is not contrary to the public interest.

Q. What's down the road with the port?

A. There are two more main phases of the Berth 100 Project: II and III. Since mid-July, when the Corps sponsored a public meeting to gather comments about a pending Environmental Impact Statement on those phases, it has been receiving and reviewing those comments from interested parties. The Corps is expected to issue a draft document of the Environmental Impact Statement in the fall of 2000.

FOR ADDITIONAL INFORMATION: Please contact our Web site: <http://www.spl.usace.army.mil>

OR:

David Castanon, Section Chief, (805) 585-2141
Joshua Burnam, Project Manager (213) 452-3294